

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Cheetah Omni LLC,

Plaintiff,

vs.

Verizon Services Corporation, et al.

Defendants.

HONORABLE LEONARD DAVIS

CIVIL ACTION NO. 6:09-cv-260

JURY TRIAL DEMANDED

**STIPULATION WITHDRAWING SECTIONS V.A. AND V.B. OF
CHEETAH'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON
INVALIDITY ISSUES (DKT #169) WITHOUT PREJUDICE**

Plaintiff Cheetah Omni, LLC and Defendants Verizon Services Corporation, Verizon Business Network Services Inc. and Verizon Enterprise Delivery LLC ("Verizon") file this Stipulation to Withdraw Sections V.A. and V.B. of Cheetah's Motion for Partial Summary Judgment on Invalidity Issues (Dkt #169) without prejudice.

This stipulation is based on the parties' January 7, 2011 stipulation (on the record in Court) that Verizon's prior art invalidity defenses will be based on eight identified references. Under the January 7, 2011 stipulation, Verizon's expert Dr. Smith is preparing a new report on invalidity, which renders moot Verizon's original prior art-based invalidity defenses and Cheetah's motion relating to them, which are addressed in Section V.A. (pp. 13-20) of Cheetah's Brief. Cheetah's withdrawal is without prejudice to Cheetah's ability to seek summary judgment on Verizon's prior art-based defenses after Cheetah receives Dr. Smith's new report.

In addition, Verizon has withdrawn, with prejudice, its defense of indefiniteness, which is addressed in Section V.B. (pp. 20-21) of Cheetah's Brief. Accordingly, the only issue that remains with respect to Dkt #169 is Verizon's enablement defense, which Cheetah addresses in Section V. C. (pp. 21-22) of its Brief. As agreed on the record January 7, 2011, Verizon will file its response to Cheetah's motion for partial summary judgment (now limited to enablement by this stipulation) on Friday, January 14, 2011.

SO STIPULATED.

Dated: January 13, 2011

By: /s/ Thomas A. Lewry

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